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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

APR 18 2005

JAMES R. LARSEN, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

22 BRIAN MAYDOLE and JANET
23 MAYDOLE, husband and wife,

24 Plaintiffs,
25
26 v.
27

31 US BANCORP, a Delaware Corporation,
32
33 Defendant.

35 NO. CV-04-0330-FVS
36 FVS
37 [PROPOSED] STIPULATED
38 PROTECTIVE ORDER

39 [Clerk's Action Required]

40 IT IS HEREBY ORDERED as follows:

41 1. **Scope of Protective Order**

42 This Protective Order applies to confidential business, financial,
43 proprietary, or commercially sensitive information, private, personal
44 information regarding a party or other individual not party to this litigation, and
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[PROPOSED] STIPULATED
PROTECTIVE ORDER - 1

[12187-0014/SL043380.034]

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

1 documents containing the preceding types of information, produced during the
2 course of discovery in this matter, whether produced in response to a discovery
3 request or subpoena, by agreement of the parties, or by other means.
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6 **2. Confidential Information**

7 This Protective Order shall be limited to and shall control the
8 confidentiality of all information and documents covered by this Protective
9 Order (hereinafter referred to as "Confidential Information").
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12 **3. Designation**

13 Any Confidential Information under this Protective Order shall be clearly
14 designated as "CONFIDENTIAL" on each page or on the outside cover of the
15 Confidential Information.
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18 **4. Disclosure**

19 Confidential Information may be disclosed only to (a) the parties; (b) the
20 parties' counsel in this matter; (c) assistants and staff employed by the parties'
21 counsel; (d) expert witnesses retained by any party in connection with this
22 matter; (e) any deposed witness in this matter to the extent necessary during the
23 course of the deposition of such witness; and (f) any person who is the author or
24 addressee of the document, who is shown on the document as having received a
25 copy of it, or who is a current or former U.S. Bank employee and would
26 normally have or have had access to the document in the ordinary course of
27 business. Under no circumstances shall any Confidential Information be
28 disclosed or otherwise conveyed except as expressly identified herein.
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[PROPOSED] STIPULATED
PROTECTIVE ORDER - 2

[12187-0014/SL043380.034]

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2 **5. Use**
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5 The Confidential Information may be used solely in this action, for the
6 purposes of or in connection with claims or defenses asserted by the parties.
7 The parties shall not use the Confidential Information for any other purpose,
8 including, but not limited to, publicity, other litigation, business, governmental
9 or commercial purposes, or administrative proceedings.
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11 If any document containing Confidential Information makes reference to
12 the conduct or affairs of any potential witness, counsel may discuss such
13 conduct or affairs with the witness without revealing the document or that such
14 document exists (except as provided in section 4). Nothing contained in this
15 Protective Order shall prejudice the rights of the parties to the Protective Order
16 to use or object to the use of the Confidential Information in any document filed
17 with the Court, deposition, appeal, trial, or other proceeding in this action,
18 provided that such use or disclosure is in accordance with this Protective Order,
19 the Civil Rules and Rules of Evidence, and applicable local rules.
20

21 Nothing contained in this Protective Order shall in any way limit or
22 preclude U.S. Bank from using any Confidential Information produced to
23 plaintiffs by U.S. Bank, or created by U.S. Bank or any of its current or former
24 employees in the course of their U.S. Bank employment, for any of the business
25 purposes for which it was created or maintained or to defend U.S. Bank's
26 position in other litigation.
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28 Any other use or disclosure during the pendency of this action or after its
29 termination is strictly prohibited.
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31 [PROPOSED] STIPULATED
32 PROTECTIVE ORDER - 3
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34 [12187-0014/SL043380.034]

35 Perkins Coie LLP
36 1201 Third Avenue, Suite 4800
37 Seattle, Washington 98101-3099
38 Phone: (206) 359-8000
39 Fax: (206) 359-9000
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6. Provision of Confidential Information

Any person provided with any Confidential Information pursuant to the terms of this Protective Order shall be provided with a copy of this Protective Order, shall be informed that he or she is subject to the terms and conditions of this Protective Order, and shall be advised that any violation of this Protective Order may subject that person to sanctions as described in Paragraph 13 of this Protective Order. In addition, any person provided with Confidential Information must complete the form attached to this Protective Order as Exhibit A and return it to counsel for the disclosing party prior to any disclosure of Confidential Information.

7. Additional Parties

If additional persons become parties to this litigation, neither they nor their counsel shall have access to any Confidential Information. The newly joined party, that party's counsel in this action, and that counsel's assistants and staff shall have access when, by agreement or court order, the party has been made subject to this Protective Order.

8. Subpoena by Third Parties, Courts, or Agencies

If a court, administrative agency, regulatory agency, or any other third party subpoenas or orders production of any Confidential Information, the parties to this Protective Order or their counsel shall promptly notify all other parties to the Protective Order and their counsel of the pendency of such subpoena or order before making production pursuant to such subpoena or

[PROPOSED] STIPULATED
PROTECTIVE ORDER - 4

[12187-0014/SL043380.034]

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1 order, so as to allow any other party a reasonable opportunity to object and seek
2 judicial relief, if necessary.
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5 **9. Responsibility of Attorneys**

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7 The parties' counsel in this action are responsible for employing
8 reasonable measures to control, consistent with this Protective Order,
9 duplication of, access to, and distribution of copies or originals of the
10 Confidential Information. There shall be no duplication of any Confidential
11 Information, except for working copies and copies for filing with the
12 appropriate court in this matter, in accordance with the procedures set forth in
13 Paragraph 10 herein.
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16 **10. Court or Agency Filings**

17 Confidential Information, if filed with any court or agency in relation to
18 this proceeding, shall be filed under seal and shall remain sealed while in the
19 office of the court or agency. The appropriate confidentiality designation must
20 be clearly indicated on the outside of the envelope that contains the
21 Confidential Information. In the event that any Confidential Information is
22 used in this action, it shall not lose its confidential status through such use, and
23 the parties shall take all steps reasonably required to protect its confidentiality.
24 The parties contemplate appropriate additional protections and objections at the
25 time of trial.
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28 **11. Depositions/Other Discovery**

29 Should Confidential Information or any portion of information contained
30 therein be used or discussed in any deposition, the pages of transcribed
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33 [PROPOSED] STIPULATED
34 PROTECTIVE ORDER - 5

35 [12187-0014/SL043380.034]

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1 testimony concerning such document or information shall likewise be
2 designated "CONFIDENTIAL" and made subject to the provisions of this
3 Protective Order. The party desiring confidential treatment must, at the time of
4 the deposition or within thirty (30) days of being provided the transcript of such
5 deposition, designate on the record or in writing those portions or pages that
6 shall be treated as Confidential Information under this Protective Order.
7 Deposition pages so designated and the information contained therein shall
8 remain confidential and shall not be used or disclosed for any purpose except as
9 permitted by this Protective Order. The portions of other discovery materials
10 containing Confidential Information, including but not limited to responses to
11 particular interrogatories, requests for admissions, or requests for production of
12 documents, shall be marked "CONFIDENTIAL."
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15 12. Objection to Designation

16 Any party who objects to the designation of any documents or
17 information as "CONFIDENTIAL" must meet and confer with the party who so
18 designated the documents or information in an effort to resolve any differences.
19 In the event the parties are unable to resolve their differences regarding
20 designation after a reasonable opportunity to meet and confer, the party
21 objecting to the designation may then move the Court for a determination that
22 the document or information is not appropriately designated pursuant to the
23 terms of this Protective Order.
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[PROPOSED] STIPULATED
PROTECTIVE ORDER - 6

[12187-0014/SL043380.034]

Perkins Coie LLP
1201 Third Avenue, Suite 4800
Seattle, Washington 98101-3099
Phone: (206) 359-8000
Fax: (206) 359-9000

13. Violation

Any person who breaches this Protective Order or otherwise violates the terms or spirit of this Protective Order shall be subject to sanctions, damages, or other appropriate relief.

14. Termination

The provisions of this Protective Order shall not terminate at the conclusion of this action. Within thirty (30) days after the final conclusion of all aspects of these proceedings, including but not limited to settlement or exhaustion of all rights of appeal, all Confidential Information and all copies of the same (except any such copies filed with the Court) shall be returned to the person, party, or non-party that produced such documents or, at the option of the producing person, party, or non-party, destroyed. With the exception of work product materials of counsel for the parties in this matter and copies of briefs filed with the Court in this matter and containing Confidential Information or having Confidential Information appended thereto, all notes, memoranda, summaries, or other documents in the possession, custody, or control of a non-producing person, referring, describing, or relating to any Confidential Information shall be destroyed. Within thirty (30) days of termination, including but not limited to settlement or exhaustion of all rights of appeal, all attorneys of record in receipt of Confidential Information shall certify that all Confidential Information in their possession has been returned or destroyed as required by this Protective Order and that they are in full compliance with this Paragraph.

[PROPOSED] STIPULATED
PROTECTIVE ORDER - 7

[12187-0014/SL043380.034]

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15. Modification and Relief

This Protective Order shall not prevent any party from applying to the Court for relief therefrom, applying to the Court for further or additional protective orders, or agreeing between themselves to modification of this Protective Order, subject to approval of the Court.

16. Jurisdiction

The parties and any other person(s) subject to the terms of this Protective Order agree that this Court shall have, and shall retain after this action is terminated, jurisdiction over it and them for the purpose of enforcing this Protective Order.

IT IS SO ORDERED.

Dated: April 18, 2005

Fred Van Brunt

THE HONORABLE FRED VAN SICKLE
UNITED STATES DISTRICT COURT JUDGE

Presented by:

PERKINS COIE LLP

By Argoletta Cooper

Julie S. Lucht, WSBA #31278

Annjanette M. Cooper, WSBA #29449

Attorneys for Defendant U.S. Bank

**STIPULATED PROTECTIVE
ORDER - 8**

[12187-0014/SI 043380 0341]

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3 **FOREMAN, ARCH, DODGE, VOLYN,**
4 **& ZIMMERMAN**
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6
7 *WSBA# 32827*

8 By _____
9 *Steve Zimmerman, WSBA #7503*
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11 Attorneys for Plaintiffs

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**STIPULATED PROTECTIVE
ORDER - 9**

[12187-0014/SL043380.034]

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5 **EXHIBIT A**
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89 **AGREEMENT TO RESPECT CONFIDENTIAL INFORMATION**
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1415 I hereby acknowledge receipt of Confidential Information provided to me
16 by _____ [name of provider of information]
17 and embodied in the following: _____
18 _____ [description of information and/or
19 documents provided, including document numbers if applicable].
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2122 I certify that I have read and understood the Protective Order entered by
23 the United States District Court for the Eastern District of Washington on the
24 _____ day of _____, 2004, in the matter of Brian Maydole and Janet
25 Maydole v. US Bancorp, Case No. CV-04-0330-FVS, a copy of which has been
26 delivered to me to keep with all copies of any Confidential Information I
27 receive.
28
2930 I further certify my understanding that such Confidential Information is
31 provided to me solely for the purposes of assisting in the preparation of Case
32 No. CV-04-0330-FVS, that I am prevented by the Protective Order from
33 employing or disseminating such information for any other purpose, and that
34 violation of the Protective Order may subject me to sanctions, damages, or
35 penalties.
36
3738 I agree to be bound by all terms of the Protective Order and hereby agree
39 not to use or disclose any Confidential Information disclosed to me except for
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4142
43 [PROPOSED] STIPULATED
44 PROTECTIVE ORDER - 10
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47 [12187-0014/SL043380.034]

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1 purposes of this proceeding. I understand that I am to make no copies of any
2 Confidential Information except for working copies, and that such information
3 is to remain in my personal custody until I have completed my assigned duties,
4 whereupon it is to be returned in accordance with the provisions of the
5 Protective Order.

6 For purposes of enforcement of the Protective Order, I agree to submit to
7 the jurisdiction of the United States District Court for the Eastern District of
8 Washington, or to any other court with appropriate jurisdiction. I acknowledge
9 that, if I violate the terms of the Protective Order, I may be subject to sanctions,
10 damages, or other appropriate penalties.

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Signature

Name (Printed)

Street Address

City, State, Zip Code

Occupation or Business

[PROPOSED] STIPULATED
PROTECTIVE ORDER - 11

[12187-0014/SL043380.034]

Perkins Coie LLP
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CERTIFICATE OF SERVICE

On April 15, 2005, I caused to be served upon counsel of record, at the address stated below, via the method of service indicated, a true and correct copy of **Stipulated Protective Order**:

Mr. Steve Zimmerman
Foreman, Arch, Dodge, Volyn, &
Zimmerman
PO Box 3125
Wenatchee, WA 98807-3125
Attorneys for Plaintiffs

Via hand delivery
 Via U.S. Mail, 1st Class,
Postage Prepaid
 Via Overnight Delivery
 Via Facsimile
 Via Email

Signed at Seattle, Washington, this 15th day of April, 2005.

Alice Wells
Legal Secretary

CERTIFICATE OF SERVICE - 1

[12187-0014/SL043380.034]

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